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THE COCA-COLA COMPANY and  
COCA-COLA REFRESHMENTS USA, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

GEORGE ENGURASOFF and JOSHUA  
OGDEN, individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

THE COCA-COLA COMPANY and COCA-  
COLA REFRESHMENTS USA, INC.,

Defendants.

Case No. 3:13-cv-03990-JSW

**DEFENDANTS THE COCA-COLA  
COMPANY AND COCA-COLA  
REFRESHMENTS USA, INC.'S  
ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES SHOULD  
BE RELATED**

Judge: Hon. Jeffrey S. White

[This document relates to *Ayanna Nobles et al v. Coca-Cola Refreshments USA, INC., and The Coca-Cola Company*, Case No. 3:13-cv-05017-SI]

**TO THE COURT AND ALL PARTIES OF RECORD:**

**PLEASE TAKE NOTICE** that a related case, *Ayanna Nobles et al v. Coca-Cola Refreshments USA, Inc., and the Coca-Cola Company*, Case No. 3:13-cv-05017-SI, was filed on October 28, 2013 in the U.S. District Court for the Northern District of California. *Nobles* Compl. attached as Ex. A of Decl. of Tammy Webb. The *Nobles* case has been assigned to the Honorable Judge Susan Illston; however, the case is related to an earlier-filed action pending before the

Honorable Judge Jeffrey S. White captioned *George Engurasoff et al v. The Coca-Cola Company and Coca-Cola Refreshments USA, Inc.* Case No. 3:13-cv-03990 JSW (first filed on August 27, 2013 and amended on October 21, 2013). *Engurasoff* Amended Compl. attached as Ex. B of Decl. of Tammy Webb. Accordingly, pursuant to Local Rules 3-12 and 7-11, Defendants The Coca-Cola Company and Coca-Cola Refreshments USA, Inc., (collectively “Defendants”) submit this Administrative Motion to Consider Whether Cases Should Be Related and request that *Nobles* be transferred to Judge White.

Both *Engurasoff* and *Nobles* are putative consumer class actions based on the same set of operative facts. Indeed, most of the allegations in the *Nobles* complaint appear to be lifted verbatim from the original *Engurasoff* complaint. In both cases, plaintiffs allege that Defendants’ labeling and advertising for Coca-Cola® (“Coke”) are unlawful because Defendants do not label phosphoric acid (a common ingredient in soft drinks) as an “artificial flavor” or “chemical preservative,” which the *Engurasoff* and *Nobles* plaintiffs allege is required by the federal Food Drug and Cosmetic Act and parallel provisions of California law. Plaintiffs in both cases seek damages and injunctive relief on behalf of purchasers of Coke in California and/or nationwide during the last 4 years under, *inter alia*, California’s Unfair Competition Law (Bus. And Prof. Code §17200 and §17500) and the Consumers Legal Remedies Act (Cal. Civ. Code § 1750). *Engurasoff* Amended Compl. at ¶¶ 140-212; *Nobles* Compl. at ¶¶ 85-149.

Transferring *Nobles* to Judge White would allow for the court to (1) eliminate duplicative discovery; (2) avoid conflicting rulings and schedules; (3) reduce litigation costs; and (4) conserve the time and effort of parties, attorneys, witnesses, and the courts. Civil Local Rule 3-12(b) (a related action is one that “appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges”). As discussed above, the legal claims in these complaints substantially overlap, and as such, Plaintiffs in each case will almost certainly seek the same documents and information. Transfer of *Nobles* before Judge White would eliminate duplicative discovery requests and depositions and facilitate the resolution of discovery disputes. Additionally, both cases are based on the same alleged fraud,

1 deceit and/or misrepresentations and both seek class certification. Moreover, the *Nobles* case should  
2 be transferred to Judge White because the *Engurasoff* case pending before Judge White was the first  
3 filed. Judge White has already ordered a briefing schedule on Defendants' motion to dismiss,  
4 pursuant to which Defendants' motion to dismiss is due to be filed on November 22, 2013.  
5 Defendants' deadline to respond to the *Nobles* complaint is not until December 30, 2013.  
6 Accordingly, the legal issues that Defendants believe are fatal to both complaints will be joined in  
7 the *Engurasoff* case in front of Judge White before Defendants are required to respond to the *Nobles*  
8 complaint. Transfer of *Nobles* to Judge White is necessary to prevent inconsistent rulings and will  
9 conserve judicial resources by allowing one judge to focus on issues of these cases.

10 Hence *Engurasoff* and *Nobles* are related pursuant to Civil Local Rule 3-12 because both  
11 actions concern substantially the same parties and transactions, and litigating these cases before  
12 different Judges in this District will result in an unduly burdensome duplication of labor and expense  
13 and create the potential for conflicting results. For the foregoing reasons, Defendants request that  
14 the Court deem *Engurasoff* and *Nobles* related pursuant to Civil Local Rule 3-12, and that *Nobles* be  
15 reassigned to Judge White.

16 Dated: November 18, 2013

SHOOK, HARDY & BACON L.L.P.

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18 By: /s/ Tammy B. Webb  
TAMMY B. WEBB

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20 Attorneys for Defendants  
THE COCA-COLA COMPANY and  
21 COCA-COLA REFRESHMENTS USA, INC.  
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